

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 356

Introduced by Senator Alarcon

February 16, 2005

An act to amend ~~Section 4927~~ *Sections 4927 and 4937* of the Business and Professions Code, relating to acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

SB 356, as amended, Alarcon. Acupuncture.

Existing law, the Acupuncture Licensure Act, provides for the licensure and regulation of acupuncturists by the Acupuncture Board. Existing law authorizes the holder of an acupuncturist's license to engage in the practice of acupuncture and various other forms of treatment, including oriental massage. Existing law specifies that the act does not prohibit a person who is not a licensed acupuncturist or licensed healing arts practitioner from performing oriental massage.

This bill would define *Chinese or oriental massage* ~~for purposes of the Acupuncture Licensure Act~~. *The bill would also authorize the holder of an acupuncturist's license to order diagnostic tests commonly accepted in the medical community and to perform or prescribe electrical stimulation.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature hereby finds and declares that*
- 2 *some health insurance plans are not covering legal and lawful*
- 3 *acupuncture procedures performed by qualified licensed*
- 4 *acupuncturists. It is the intent of the Legislature, in the interests*

1 *of public health and safety, to specifically clarify and express to*
2 *California insurance carriers and providers, for the purposes of*
3 *reimbursement, that electrical stimulation, diagnostic tests, and*
4 *Chinese or oriental massage are legal and payable.*

5 SECTION 1.

6 SEC. 2. Section 4927 of the Business and Professions Code is
7 amended to read:

8 4927. As used in this chapter, unless the context otherwise
9 requires:

10 (a) "Board" means the Acupuncture Board.

11 (b) "Person" means any individual, organization, or corporate
12 body, except that only individuals may be licensed under this
13 chapter.

14 (c) "Acupuncturist" means an individual to whom a license
15 has been issued to practice acupuncture pursuant to this chapter,
16 which is in effect and is not suspended or revoked.

17 (d) "Acupuncture" means the stimulation of a certain point or
18 points on or near the surface of the body by the insertion of
19 needles to prevent or modify the perception of pain or to
20 normalize physiological functions, including pain control, for the
21 treatment of certain diseases or dysfunctions of the body and
22 includes the techniques of electroacupuncture, cupping, and
23 moxibustion.

24 ~~(e) "Chinese or oriental massage" ("Tui Na") means the use of~~
25 ~~pressure techniques, through massage, manipulation, and~~
26 ~~mobilization of surface tissue and muscle for the therapeutic~~
27 ~~objective of stimulation for proper body function. "Chinese or~~
28 ~~oriental massage" also means "manual therapy" or "myofascial~~
29 ~~release" as used in western terms and treatment procedures.~~

30 SEC. 3. Section 4937 of the Business and Professions Code is
31 amended to read:

32 4937. An acupuncturist's license authorizes the holder
33 thereof:

34 (a) To engage in the practice of acupuncture.

35 (b) To perform or prescribe the use of *Chinese or* oriental
36 massage, acupressure, breathing techniques, exercise, heat, cold,
37 magnets, *electrical stimulation*, nutrition, diet, herbs, plant,
38 animal, and mineral products, and dietary supplements to
39 promote, maintain, and restore health. Nothing in this section
40 prohibits any person who does not possess an acupuncturist's

1 license or another license as a healing arts practitioner from
2 performing, or prescribing the use of any modality listed in this
3 subdivision.

4 (c) *To order diagnostic tests commonly accepted in the*
5 *medical community.*

6 (d) For purposes of this section, a “magnet” means a mineral
7 or metal that produces a magnetic field without the application of
8 an electric current.

9 ~~(d)~~

10 (e) For purposes of this section, “plant, animal, and mineral
11 products” means naturally occurring substances of plant, animal,
12 or mineral origin, except that it does not include synthetic
13 compounds, controlled substances or dangerous drugs as defined
14 in Sections 4021 and 4022, or a controlled substance listed in
15 Chapter 2 (commencing with Section 11053) of Division 10 of
16 the Health and Safety Code.

17 ~~(e)~~

18 (f) For purposes of this section, “dietary supplement” has the
19 same meaning as defined in subsection (ff) of Section 321 of
20 Title 21 of the United States Code, except that dietary
21 supplement does not include controlled substances or dangerous
22 drugs as defined in Section 4021 or 4022, or a controlled
23 substance listed in Chapter 2 (commencing with Section 11053)
24 of Division 10 of the Health and Safety Code.

25 (g) *For purposes of this section, “Chinese or oriental*
26 *massage” (Tui Na) means the use of pressure techniques through*
27 *massage, manipulation, mobilization, and electrical stimulation*
28 *of surface tissue and muscle for the therapeutic objective of*
29 *stimulation for proper body function. “Chinese or oriental*
30 *massage” also means “manual therapy” or “myofascial*
31 *release” as used in western terms and treatment procedures.*